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Hearing Date: Aug. 30, 2017
Hearing Time: 10:00 a.m.

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re:

Case No. 17-11346 (MKV)

TIRAMISU RESTAURANT, LLC,

Chapter 11

Debtor.

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**NOTICE OF MOTION FOR AN ORDER PURSUANT TO SECTION
365(a) OF THE BANKRUPTCY CODE ASSUMING DEBTOR'S UNEXPIRED LEASE
OF NONRESIDENTIAL REAL PROPERTY AND APPROVING LEASE EXTENSION**

PLEASE TAKE NOTICE that a hearing on the annexed Motion of Tiramisu Restaurant, LLC, as debtor and debtor in possession (the "Debtor"), pursuant to Section 365(a) of the Bankruptcy Code to Assume the Lease of Nonresidential Real Property (the "Motion"), will be held before the Honorable Mary Kay Vyskocil, United States Bankruptcy Judge, Room 501 of the United States Bankruptcy Court for the Southern District of New York, Alexander Hamilton Custom House, One Bowling Green, New York, New York 10004, on August 30, 2010 at 10:00 a.m. (prevailing Eastern Time), or as soon thereafter as counsel may be heard.

PLEASE TAKE FURTHER NOTICE that objections, if any, to the Motion, must be in writing, must conform to the Federal Rules of Bankruptcy Procedure and the Local Rules of the Bankruptcy Court for the Southern District of New York, must set forth the name of the objecting party, the nature and amount of claims or interests held or asserted by the objecting party against the Debtor's estate or property, the basis for the objection and the specific grounds

therefor, and must be filed with the Bankruptcy Court electronically in accordance with General Order M-242 (General Order M-242 and the User's Manual for the Electronic Case Filing System may be found at www.nysb.uscourts.gov, the official website for the Bankruptcy Court) by registered users of the Bankruptcy Court's case filing system, and by all other parties in interest on a 3.5 inch disk, preferably in Portable Document Format (PDF), WordPerfect, or any other Windows-based word processing format (with a hard copy delivered directly to Chambers), in accordance with General Order M-182, and any objection must further be served upon: (i) the Debtor, 1410 Third Avenue, New York, NY 10021 (ii) counsel to the Debtor, Kornfeld & Associates, P.C., 240 Madison Avenue, 8th Floor, New York, NY 10016 (Attn: Randy M. Kornfeld, Esq.) (iii) the Office of the United States Trustee for the Southern District of New York, 33 Whitehall Street, 21st Floor, New York, New York 10004 (Attn: Greg Zipes, Esq.), so as to be received no later than **August 23, 2017 at 4:00 p.m, (prevailing Eastern Time)**.

PLEASE TAKE FURTHER NOTICE that if no objections to the Motion are timely filed, served and received in accordance with this Notice, the Bankruptcy Court may grant the relief requested in the Motion without further notice or hearing.

Dated: August 2, 2017
New York, New York

Respectfully submitted,

KORNFELD & ASSOCIATES, P.C.
Attorneys for the Debtor

By: /s/ Randy Kornfeld
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In re:

Case No. 17-11346 (MKV)

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**DEBTOR'S APPLICATION FOR AN ORDER PURSUANT TO SECTION
365(a) OF THE BANKRUPTCY CODE ASSUMING DEBTOR'S UNEXPIRED LEASE
OF NONRESIDENTIAL REAL PROPERTY**

TO THE HONORABLE MARY KAY VYSKOCIL,
UNITED STATES BANKRUPTCY JUDGE:

TIRAMISU, RESTAURANT, LLC (hereinafter referred to as "Tiramisu" or "Debtor"), by its attorneys, Kornfeld & Asssociates, P.C., submits this application (the "Application") for an Order assuming Debtor's unexpired lease of nonresidential real property. In support of this Application, the Debtor respectfully represents as follows:

1. On May 15, 2017 (hereinafter referred to as the "Filing Date"), the Debtor filed a petition for relief pursuant to Chapter 11 of Title 11, United States Code ("Bankruptcy Code") and was continued in the management and operation of its business and properties as debtor-in-possession pursuant to Sections 1107 and 1108 of the Bankruptcy Code. No Committee of Unsecured Creditors, trustee or examiner has been appointed.

JURISDICTION

2. This Court has jurisdiction to consider this motion pursuant to 28 U.S.C. §157 and 1334. This motion is a core proceeding pursuant to 28 U.S.C. § 157(b).
3. Venue is proper in this district pursuant to 28 U.S.C. § 1408 and 1409.

RELIEF REQUESTED

4. The Debtor operates a restaurant located at 1410 Third Ave., New York, New York 10021(hereinafter referred to as the “Premises”) pursuant to a lease dated December 1, 1997 and extended on February 1, 2007 (hereinafter referred to as the “Lease”) with 1418 Kitchen Corporation c/o Maria Armendariz (“Landlord”). The Debtor and its predecessor corporation, Tiramisu Restaurant, Inc. have operated at this location since 1989. The Lease expires on November 30, 2017. The Debtor’s monthly rent payment for the Lease is currently \$25,035.00. The Landlord has a security deposit from the Debtor in the amount of \$40,000. The Debtor is current on all pre and post petition rent payments.

5. ON or about June 14, 2017, the Debtor and the Landlord executed a Lease Extension, extending the term of the Lease for an additional ten (10) years, up through and including November 30, 2028. A copy of the Lease Extension is annexed hereto as Exhibit A along with a copy of the original Lease.

6. The Debtor is prepared to file its Disclosure Statement and Plan of Reorganization within the next 45-60 days and is prepared at this time to assume its lease. As stated above it need not cure any pre-petition arrears as a condition to do so.

7. The Debtor submits that the relief requested herein will avert the statutory forfeiture of a valuable and necessary asset and promote the Debtor’s ability to maximize the value of its Chapter 11 estate. Accordingly, the Debtor wishes to assume the Lease because it is in the best interest of the Debtor and its estate and, therefore, the motion should be granted. The Debtor has

operated from these premises for more than twenty-five (25) years and enjoys substantial goodwill at the location. It will remain there following confirmation of its Plan of Reorganization in accordance with the terms of the Lease Extension of which this Court's approval is requested.

8. The Debtor respectfully requests that this Court waive the requirements of Local Bankruptcy Rule 9013(1)(b) since this Application does not present any novel issues of law and contains a brief discussion of the relevant case law.

9. Pursuant to Bankruptcy Rule 6006, notice of this motion will be given to the Landlord, the Office of the United States Trustee for the Southern District of New York, twenty largest creditors and any entity which has filed a Notice of Appearance in this case.

10. The Debtor has not requested this relief previously.

WHEREFORE, the Debtor respectfully requests entry of an order granting the relief requested herein and for such other and further relief this Court deems just and proper.

Dated: New York, New York
August 2, 2017

KORNFELD & ASSOCIATES, P.C.
Attorneys for the Debtor and
Debtor-in-Possession

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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re:

Case No. 17-11346 (MKV)

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**ORDER AUTHORIZING DEBTOR TO ASSUME ITS
UNEXPIRED LEASE OF NONRESIDENTIAL REAL PROPERTY**

Upon the application, dated August 2, 2017, of Tiramisu Restaurant, LLC (the "Debtor"), for an Order Pursuant to Section 365(a) of the Bankruptcy Code Assuming the Debtor's Unexpired Lease of Nonresidential Real Property, (the "Application"), and it appearing that proper service has been given; and upon the hearing held before this Court on August 30, 2010 and the statements of counsel on the record; and sufficient cause appearing for the relief requested; it is

ORDERED, that the Application is hereby granted; and it is further

ORDERED, that the Debtor hereby assumes its unexpired lease of nonresidential real property with 1418 Kitchen Corporation c/o Maria Armendariz dated December 1, 1997 and lease extension dated February 1, 2007 and lease extension dated June 14, 2017 for retail space located at 1410 Third Avenue, New York, New York, pursuant to 11 U § 365(a); and it is further

ORDERED, that Debtor shall remain current with its post-petition obligations under the Lease.

Dated: August ___, 2017
New York, New York

HONORABLE MARY KAY VYSKOCIL
UNITED STATES BANKRUPTCY JUDGE